

October 5, 2021

ZO Skin Health Inc
7735 S 134th St, Suite 109
Omaha NE 68138

RE: Case No. 21-184

To Whom it May Concern:

Enclosed you will find a Summary Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety. In addition, a civil fine has been assessed totaling \$1,000. Please submit a check or money order made payable to the Kansas Board of Pharmacy and include your case number in the check memo.

If you disagree with the findings of fact, you have the right to request a hearing. Instructions for filing a written request are included under the "Notices" section of the order. Hearings are held before the full Board during their regularly scheduled quarterly meetings.

According to KSA 65-1627h, the Board is required to recoup the costs of administrative hearings when the decision is adverse to the licensee. These costs may include charges for services rendered by the Board's disciplinary counsel, an administrative law judge, and, if applicable, a court reporter.

If you have any questions, feel free to contact the Board at Pharmacy.Compliance@ks.gov.

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)

ZO Skin Health, Inc.)

Registration No. 5-114611)

Case No. 21-184

SUMMARY ORDER

NOW on this 5th day of October, 2021, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Director, the matter of ZO Skin Health, Inc. (“Respondent”).

Pursuant to the authority granted to the Board by the Kansas Pharmacy Act, K.S.A. 65-1625, *et seq.*, and in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board’s Executive Secretary enters this Summary Order in the above-captioned matter. After reviewing the investigation materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. The Board has previously issued Respondent Registration No. 5-114611 which entitles Respondent to operate as a wholesale distributor in the State of Kansas (“Respondent’s Registration”).

2. On October 15, 2020, the ownership of Respondent’s facility changed.

3. On April 16, 2021, the Board received from Respondent a Form BA-05 Wholesale Distributor Registration Application, notifying of the change in ownership, effective October 15, 2020, and applying for a new wholesale distributor registration.

4. On August 26, 2021, the Board approved Respondent's Wholesale Distributor Application, effective immediately.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1658, the Board may assess a civil fine not to exceed \$5,000, after notice and an opportunity to be heard, to any registrant for violation of the pharmacy act of the state of Kansas or any other rules or regulations of the state board of pharmacy.

2. Pursuant to K.S.A. 65-1627(f)(6), the Board may take action against a registration of a wholesale distributor that has violated the Pharmacy Act of the State of Kansas or regulations adopted by the Board.

3. Pursuant to K.S.A. 68-14-4(c), each registrant must submit change in address information within 30 days after any change in that information.

4. Respondent's failure to submit the complete change of ownership application to the Board until April 16, 2021 – over six months past the November 15, 2020 deadline – is a violation of K.S.A. 68-14-4(c), and a basis to discipline Respondent's Registration pursuant to K.S.A. 65-1627(f)(6).

5. Pursuant to K.S.A. 65-1643, it shall be unlawful for any person to distribute at wholesale any drugs without first obtaining a registration as a wholesale distributor from the Board.

6. Pursuant to K.S.A. 65-1645(f), registrations issued pursuant to K.S.A. 65-1643 shall not be transferrable and shall expire every year.

7. By continuing to operate as a wholesale distributor under new ownership using the registration issued to the previous owner, Respondent violated K.S.A. 65-1643.

ORDER

The Board finds and concludes that Respondent's conduct, as described above, violates the Act and such conduct warrants the imposition of a fine pursuant to K.S.A. 65-1658, in the amount of \$1,000. Respondent has 30 days from the date of this order to pay the full amount due.

NOTICES

The Respondent is hereby notified as follows:

1. The Respondent may request a hearing pursuant to the Kansas Administrative Procedure Act by filing a written request with the Kansas Board of Pharmacy, 800 SW Jackson, Suite 1414, Topeka, KS 66612-1231 within fifteen (15) days after service of this order.
2. If a hearing is not requested as described above, the Order shall become a final order of the Board, effective upon the expiration of the time to request a hearing.
3. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.
4. Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a final agency order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is:

Alexandra Blasi
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

10/5/2021

Date



Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 5th day of October, 2021 deposit in business mail a copy of the foregoing Summary Order, which is then placed in the United States Mail, postage prepaid, properly addressed to the following:

ZO Skin Health, Inc.
7735 S 134th St, Suite 109
Omaha NE 68138

A handwritten signature in cursive script that reads "Alex Blasi".

Kansas Board of Pharmacy Staff